Atty Docket No. 80398.P455   *Patent*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Examiner: Smith, Traci L.
)	
Hofrichter et al.)	Art Unit: 3629
)	
Application No. 09/921,199)	Confirmation No.: 6066
)	
Filed: August 1, 2001)	
)	
For: SYSTEM AND METHOD FOR)	
ENABLING DISTRIBUTION)	
AND BROKERING OF)	
CONTENT INFORMATION)	
)	

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

This is an appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner of Group 3639, dated April 5, 2006, in which claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40, and 43-50 in the above-identified application were finally rejected. This Appeal Brief is hereby submitted pursuant to 37 C.F.R. § 41.37(a).

I. REAL PARTY IN INTEREST

The real party in interest is the assignee of the full interest in the invention, Sony Electronics, Inc. of Park Ridge, N.J., and Sony Corporation of Tokyo, Japan.

II. RELATED APPEALS AND INTERFERENCES

To the best of Appellant's knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.

III. STATUS OF THE CLAIMS

Claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40, and 43-50 are pending in the application and were rejected in the final Office Action mailed April 5, 2006. Claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40, and 43-50 are the subject of this appeal. A copy of Claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40, and 43-50 as they stand on appeal are set forth in the Claims Appendix.

IV. STATUS OF AMENDMENTS

No amendments to the claims have been made after receipt of the Final Office Action on April 5, 2006.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Appellant claims a content distribution system in which a distribution tool enables a client to further distribute data that the client purchased from a content provider. Claims 1, 2, 4, 7, 8, 30, 31, 33, 36, 37 and 48 claim the client. Claims 9-12, 14-18, 38-40, 43-47 and 49-50 claim an original content provider. Claims 19-21 and 34-28 claim the client and the original content provider together in a system. The system is illustrated in Figures 1A and 1B, and operates as described in paragraphs 16-33. The operation of a content provider (server 104) is illustrated in Figure 3 and described in more detail in paragraphs 39-44. The operation of a client 102 is described in more detail in Figure 4 and paragraphs 45-50.

As claimed in independent Claims 1, 30 and 48, the client requests and receives data from one of a plurality of content providers (blocks 410-460 of Figure 4, paragraphs 45-48). The plurality of content providers may include clients that have become content providers, as well as the original content provider (paragraph 41). The client also receives identification information that identifies the content provider (block 430, paragraph 48). The client transmits payment for the data to the content provider (block 470 and paragraph 49). The client requests and receives a distribution tool from the content provider (blocks 490-495, paragraph 50). As described in paragraphs 24-25, the distribution tool identifies the client as a content provider and allows the client to further distribute the data it purchased.

Independent Claims 9, 38 and 49, claim the operation of the original content provider when it provides the distribution tool to the client. The original content provider receives the identification information and payment for the data from the client (block 350 of Figure 3, paragraph 42). The original content provider receives the client's request for a distribution tool (block 380, paragraph 44) and transmits distribution tool that identifies the client as a content provider for the data (block 390, paragraph 44).

As claimed in independent claim 19, the system comprises a client 102 and a server 104 for an original content provider that operate together, with the client operating as described in paragraphs 45-50 in conjunction with Figure 4 and with the server operating as described in paragraph 39-44 in conjunction with Figure 3.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

I.   Claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40, and 43-50 stand rejected under 35 U.S.C. § 102(e) over U.S. Patent 6,868,403 to Wiser et al.

VII. ARGUMENTS

I.   Claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40, and 43-50 are Patentable under 35 U.S.C. § 102(e) over Wiser.

Wiser discloses a content distribution system in which content is initially encrypted using the public key of a content manager that stores the content for distribution. When the content is purchased, the content manager's public key is removed and the content is re-encrypted using the public key of the purchaser's media player. A "passport" issued to the purchaser enables the purchaser to decrypt the content for playing. Wiser discloses that some of the data can be digitally signed by the content author to prevent modification of the data, and that the signed data is not encrypted so that it can be freely distributed. Wiser also discloses that the encrypted data can be watermarked.

Claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40, and 43-50 stand or fall together. Claim 1 is the representative claim. In Claim 1, Appellant claims that a client pays for downloaded data and receives a distribution tool that identifies the client (purchaser) as a content provider for the downloaded (purchased) data.

In three separate arguments, the Examiner equates first Wiser's digital signature, then Wiser's watermark, and then Wiser's passport with Appellant's claimed distribution tool. Appellant respectfully submits that Wiser discloses that the digital signature, the watermark, and the passport are different elements. Wiser discloses that the digital signature is applied to non-encrypted data. Wiser discloses that the watermark is embedded in encrypted data. Wiser discloses that the passport decrypts the encrypted data. In addition, a digital signal, a watermark and a decryption object (the passport) are not known art equivalents. Thus, the Examiner is equating a single element in Appellant's claims with three dissimilar prior art elements. This is improper.

Moreover, Wiser's digital signature, Wiser's watermark, or Wiser's passport , taken either singularly or in any combination, are not equivalent to Appellant's distribution tool as claimed.

Wiser's digital signature identifies the content author. Wiser does not teach or suggest that the digital signature identifies the purchaser, much less that the digital signature identifies the purchaser as a content distributor of the purchased data.

A digital watermark typically provides copyright information for the data. As well-known, a copyright identifies the author of the data. Wiser does not teach or suggest that the watermark identifies the purchaser, much less that the digital signature identifies the purchaser as a content distributor of the purchased data.

Wiser's passport is used to decrypt the content for playback for a specific content purchaser. However, Wiser does not teach or suggest that the passport itself identifies the purchaser, only that the passport is associated with the purchaser at a licensing center. In addition, Wiser does not teach or suggest that the passport identifies the purchaser as a content distributor of the purchased data.

Furthermore, Wiser does not teach or suggest that a purchaser of content can become a content provider by receiving a distribution tool as claimed. Indeed, because Wiser the content can only be decrypted using the purchaser's passport, if the purchaser attempted to distribute the content to another person, the content would not play on the other person's player.

Thus, Wiser does not disclose a distribution tool that identifies a client that pays for content as a content provider of the purchased content. Accordingly, Wiser cannot

anticipate Appellant's invention as claimed in claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40, and 43-50.

VIII. CONCLUSION

Because Wiser does not teach or suggest each and every element of Appellant's Claims, Appellant respectfully requests the Board reverse the rejections of Claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40, and 43-50 under 35 U.S.C. § 102(e) and direct the Examiner to enter a Notice of Allowance for Claims 1, 2, 4, 7-12, 14-21, 24-28, 30, 31, 33, 36-40, and 43-50.

Fee for Filing a Brief in Support of Appeal

Enclosed is a check in the amount of $500.00 to cover the fee for filing a brief in support of an appeal as required under 37 C.F.R. §§ 1.17(c) and 41.37(a).
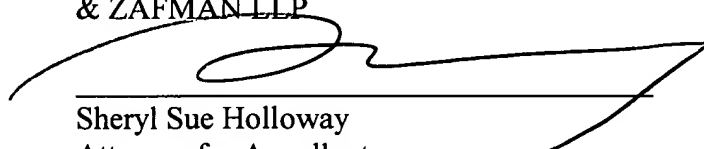
Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Appellant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP

Dated: October 5, 2006

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CLAIMS APPENDIX FOR

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

1. (Previously presented) A computerized method for execution by a client, the method comprising:

transmitting a request to download data;

receiving identification information and data downloaded from one of a plurality of content providers storing said data, said identification information identifying said one content provider and obtained by said one content provider from an original content provider of said data;

transmitting, to said original content provider, said identification information for said one content provider, which downloaded said data, along with payment for the download of said data;

transmitting, to said original content provider, a request for a distribution tool identifying said client;

receiving said distribution tool; and

applying said distribution tool to said data to identify said client as a content provider for said data.

2. (Original) The method according to claim 1, wherein said data is encrypted and contains a plurality of encrypted content files.

3. (Cancelled)

4. (Previously presented) The method according to claim 1, wherein applying said distribution tool comprises embedding said distribution tool within said data.

5-6. (Cancelled)

7. (Previously presented) The method according to claim 1, wherein said distribution tool comprises a digital watermark.

8. (Previously presented) The method according to claim 2, wherein transmitting said identification information further comprises:

transmitting said payment for download of a decryption tool for decrypting said data; and

receiving said decryption tool.

9. (Previously presented) A computerized method for execution by an original content provider, the method comprising:

receiving, from a client, identification information for one of a plurality of content providers, which downloaded of data to said client, along with payment for the download of said data;

receiving, from said client, a request for a distribution tool identifying said client; and

transmitting said distribution tool to said client for subsequent application of the distribution tool to said data by said client to identify said client as a content provider for said data.

10. (Original) The method according to claim 9, wherein said data is encrypted and contains a plurality of encrypted content files.

11. (Previously presented) The method according to claim 9, wherein said application of said distribution tool by said client comprises embedding said distribution tool within said data.

13. (Cancelled)

14. (Previously presented) The method according to claim 9, further comprising storing said distribution tool identifying said client.

15. (Previously presented) The method according to claim 9, wherein said distribution tool comprises a digital watermark.

16. (Original) The method according to claim 10, wherein receiving said identification information further comprises:

receiving said payment for download of a decryption tool for decrypting said data; and

transmitting said decryption tool to said client.

17. (Original) The method according to claim 9, further comprising transmitting a fee to said one content provider.

18. (Original) The method according to claim 17, wherein said fee is predetermined and represents a percentage of said payment received for the download of said data.

19. (Previously presented) A system comprising:

a client configured to transmit a request to download data; and

a server for an original content provider coupled to said client and configured to receive identification information for one of a plurality of content providers, which downloaded said data to said client, along with payment for the download of said data, to receive a request for a distribution tool identifying said client, and to transmit said distribution tool to said client,

wherein said client is further configured to receive and apply said distribution tool to said content to identify said client as a content provider for said data.

20. (Original) The system according to claim 19, wherein said data is encrypted and contains a plurality of encrypted content files.

21. (Previously presented) The system according to claim 19, wherein applying said distribution tool comprises embedding said distribution tool within said data.

22-23. (Cancelled)

24. (Previously presented) The system according to claim 19, wherein said server stores said distribution tool identifying said client.

25. (Previously presented) The system according to claim 19, wherein said distribution tool comprises a digital watermark.

26. (Original) The system according to claim 20, wherein said server further receives said payment for download of a decryption tool for decrypting said data from said client, and transmits said decryption tool to said client.

27. (Original) The system according to claim 19, wherein said server further transmits a fee to said one content provider.

28. (Original) The system according to claim 27, wherein said fee is predetermined and represents a percentage of said payment received for the download of said data.

29. (Cancelled)

30. (Previously presented) A computer readable medium containing executable instructions, which, when executed in a processing system for a client, cause said system to perform a method comprising:

transmitting a request to download data;

receiving identification information and data from one of a plurality of content providers storing said data, said identification information identifying said one content provider and obtained by said one content provider from an original content provider of said data;

transmitting, to said original content provider, said identification information for said one content provider, which downloaded said data, along with payment for the download of said data;

transmitting to said original content provider, a request for a distribution tool identifying said client;

receiving said distribution tool; and

applying said distribution tool to said data to identify said client as a content provider for said data.

31. (Original) The computer readable medium according to claim 30, wherein said data is encrypted and contains a plurality of encrypted content files.

32. (Cancelled)

33. (Previously presented) The computer readable medium according to claim 30, wherein applying said distribution tool comprises embedding said distribution tool within said data.

34-35. (Cancelled)

36. (Previously presented) The computer readable medium according to claim 30, wherein said distribution tool comprises a digital watermark.

37. (Previously presented) The computer readable medium according to claim 31, wherein transmitting said identification information further comprises:

transmitting said payment for download of a decryption tool for decrypting said data; and

receiving said decryption tool .

38. (Previously presented) A computer readable medium containing executable instructions, which, when executed in a processing system for an original content provider, cause said system to perform a method comprising:

receiving, from a client, identification information for one of a plurality of content providers, which downloaded of data to said client, along with payment for the download of said data;

receiving, from said client, a request for a distribution tool identifying said client; and

transmitting said distribution tool to said client for subsequent application to said data by said client to identify said client as a content provider for said data.

39. (Original) The computer readable medium according to claim 38, wherein said data is encrypted and contains a plurality of encrypted content files.

40. (Previously presented) The computer readable medium according to claim 38, wherein application of said distribution tool by said client comprises embedding said distribution tool within said data.

41-42. (Cancelled)

43. (Previously presented) The computer readable medium according to claim 38, wherein the method further comprises storing said distribution tool identifying said client.

44. (Previously presented d) The computer readable medium according to claim 38, wherein said distribution tool comprises a digital watermark.

45. (Original) The computer readable medium according to claim 39, wherein receiving said identification information further comprises:

receiving said payment for download of a decryption tool for decrypting said data; and

transmitting said decryption tool to said client.

46. (Original) The computer readable medium according to claim 38, wherein the method further comprises transmitting a fee to said one content provider.

47. (Original) The computer readable medium according to claim 46, wherein said fee is predetermined and represents a percentage of said payment received for the download of said data.

48. (Previously presented) A computerized method for execution by a client, the method comprising:

transmitting a request to receive data;

receiving said data from a first content provider for said data, said first content provider being one of a plurality of content providers making data available to said client;

receiving identification information that identifies said first content provider, said identification information obtained by said first content provider from an original content provider of the data;

transmitting said identification information and payment for said data to said original content provider;

transmitting a request for a distribution tool to said original content provider, wherein said request for a distribution tool identifies said client;

receiving said distribution tool; and

applying said distribution tool to said data to identify said client as a second content provider for said data.

49. (Previously presented) A computerized method for execution by an original content provider, the method comprising:

receiving, from a first client, identification information for a first content provider that provided data to said first client, said first content provider being one of a plurality of content providers making data available to said first client;

receiving, from said first client, payment for said data;

receiving, from said first client, a request for a distribution tool, wherein the distribution tool identifies said first client; and

transmitting said distribution tool to said first client to identify said first client as a second content provider for said data.

50. (Previously presented) The method of claim 49, further comprising:

receiving identification information and payment for said data from a second client, said identification information identifying said first client.

EVIDENCE APPENDIX FOR
APPEAL BRIEF UNDER 37 C.F.R. § 41.37

NONE

RELATED PROCEEDINGS APPENDIX FOR
APPEAL BRIEF UNDER 37 C.F.R. § 41.37

NONE